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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,002	02/04/2004	Mark Elkington	VBW 5612	4079
321	7590	11/03/2005	EXAMINER	
SENNIGER POWERS ONE METROPOLITAN SQUARE 16TH FLOOR ST LOUIS, MO 63102			COLLADO, CYNTHIA FRANCISCA	
			ART UNIT	PAPER NUMBER
			3618	

DATE MAILED: 11/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/772,002	ELKINGTON, MARK	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cynthia F. Collado	3618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-8, 11 and 12 is/are rejected.
- 7) ☒ Claim(s) 4, 9 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/23/2004</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3,5-8,11 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Holzer et al'706 (US Patent No. 6,910,706).

Regarding claim 1, Holzer discloses a base plate (see figure 1, element 11), side plates projecting from the base plate (see figure 1, side of element 11) intermediate elements attached to at least one of the base plate and the side plates (see figure 1, element 71) a heel support pivotally mounted on the intermediate elements (see figure 1, element 70), and the intermediate elements being adjustable along a longitudinal direction of the snowboard binding (see column 2, lines 21-30).

Regarding claim 2, Holzer discloses an intermediate element attached by at least one screw to at least one of the base plate and to the side plates (see figure 1, element 71).

Regarding claims 3 and 5, Holzer discloses at least one of the base plate and the side plates have at least one longitudinal hole through which at least one screw extends (see figure 1, element 71).

Regarding claim 6, Holzer discloses at least one support element having a side wall and attached to the intermediate elements projecting into the at least one

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longitudinal hole and being supported by its side wall (see figure 1, element 11, 70 and 71).

Regarding claim 7, Holzer discloses at least one screw extends through one support element (see figure 1, element 70).

Regarding claim 8, Holzer discloses a lower side of the base plate or the side plates facing away from the intermediate elements has an enlarged recess for receiving a threaded nut for the at least one screw (see figure 6, element 43 and 44).

Regarding claim 11, Holzer discloses the base plate and the side plates formed as one piece (see figure 1, element 11).

Regarding claim 12, Holzer discloses an instep strap and one attachment element for attaching the instep strap to the intermediate elements (see figure 1, elements 7 and 10).

### ***Allowable Subject Matter***

3. Claims 4,9 and 10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 13 is allowed. The following is a statement of reasons for the indication of allowable subject matter:

The lower side of each of the intermediate elements facing the base plate having a toothed section and the base plate or the side plates having a corresponding counter toothed section.

**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

US Patent No. 4,353,574 issued to Faulin teaches a ski binding structure.

US Patent No. 6,364,323 issued to Coulter teaches a tool free adjustment system for a leg support member of a binding.

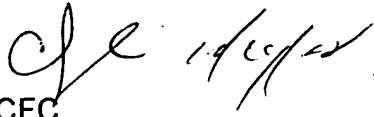
US Patent No. 4,264,088 issued to Replogle teaches a slide mount for a ski-binding component.

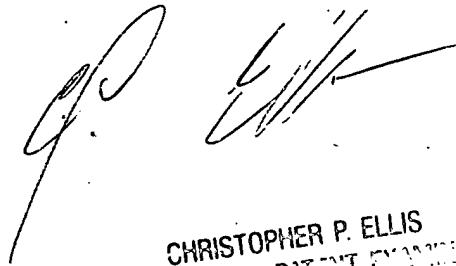
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571)2728315. The examiner can normally be reached on mon-fri 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on (571)2726914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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CFC



CHRISTOPHER P. ELLIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER